

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

ANDREW C. WIESNER, )  
PLAINTIFF )  
v. )  
THOMAS B. MODLY, as Acting )  
Secretary of the United States )  
Department of the Navy, )  
DEFENDANT )  
CIVIL No. 2:19-cv-114-DBH

**REPORT OF PRE-FILING CONFERENCE UNDER LOCAL RULE 56**

A Local Rule 56 pre-filing conference was held on January 7, 2020.

Thomas B. Modly is substituted as the defendant under Fed. R. Civ. P. 25(d).

The plaintiff has asserted claims of unlawful retaliation, alleging that the Navy retaliated against him for filing several complaints of discrimination or retaliation. The plaintiff agrees with the defendant's statement, see Def.'s Local R. 56(h) Mem. at 3 (ECF No. 29), that he is claiming three separate instances of retaliation: (1) his non-selection for the Worker Skills Progression Program; (2) his termination from Aerotek on March 1, 2018; and (3) the issuance of a bar order against him on March 2, 2018.

The plaintiff agrees he is pursuing retaliation claims under Section 501, not Section 504, of the Rehabilitation Act. See 29 U.S.C. § 791. He indicated he also may seek relief under an additional statute; the Court **ORDERS** him to file a

statement citing that statute by Friday, January 10, 2020. The parties agree that the McDonnell Douglas burden-shifting framework applies to the plaintiff's Rehabilitation Act claims at the summary judgment stage, and that the plaintiff's claims require a showing of but-for causation. See Palmquist v. Shinseki, 689 F.3d 66, 70, 74 (1st Cir. 2012); see also McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-04 (1973).

The following deadlines and page limits were established by agreement:

By February 3, 2020, both parties shall file a joint record and any stipulations.

By February 26, 2020, the defendant shall file his motion for summary judgment. The memorandum shall not exceed 25 pages.

By March 25, 2020, the plaintiff shall file his opposition, not to exceed 25 pages.

By April 8, 2020, the defendant shall file his reply, not to exceed seven pages.

**So ORDERED.**

**DATED THIS 7<sup>TH</sup> DAY OF JANUARY, 2020**

/S/D. BROCK HORNBY

**D. BROCK HORNBY**

**UNITED STATES DISTRICT JUDGE**